

DEPARTMENT OF HEALTH SERVICES

714/744 P Street
P.O. Box 942732
Sacramento, CA 94234-7320
(916) 657-0258

November 13, 1998



TO: All County Welfare Directors
All County Administrative Officers
All County Public Health Directors
All County Medi-Cal Program Specialists/Liaisons

Letter No.: 98-55

QUALIFIED AND NOT QUALIFIED ALIENS

Ref.: All County Welfare Directors Letter (ACWDL) No. 97-42, EMC2 No. 97128, EMC2 No. 97129, Errata 97-42

INTRODUCTION

The purpose of this ACWDL is to provide answers to questions regarding the instructions in ACWDL 97-42 for identifying and tracking aliens who are Qualified Aliens due to battery or extreme cruelty, and aliens who are on active duty in, or who are veterans of, the United States (U.S.) Armed Services, or their spouse, widow/er, or dependent children.

This ACWDL also identifies common types of Immigration and Naturalization Services (INS) documentation that Qualified and Not Qualified aliens can use to verify their INS alien status for identification and tracking purposes, and provides information regarding changes to information provided in ACWDL 97-42 and Errata 97-42 regarding tracking codes for identifying and tracking Amerasian and battered aliens. Enclosed with this ACWDL is a revised Qualified/Not Qualified/Refugee Alien Tracking chart.

Additionally, this ACWDL provides new information regarding **Date of Entry** and **"Continuous Presence."**

THIS LETTER DOES NOT CHANGE, IN ANY WAY, THE MEDI-CAL BENEFIT LEVEL ANY ALIEN IS CURRENTLY ENTITLED TO RECEIVE.

The following is a list of the most common INS documents that aliens will have to verify their immigration status:

- **Alien Lawfully Admitted for Permanent Residence**

VERIFICATION

- INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card")
- INS Form I-94 with unexpired temporary I-551 stamp
- Unexpired Temporary I-551 stamp in foreign passport

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- **Alien Paroled Into the U.S. for at Least One Year**

VERIFICATION

- INS Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA

- **Alien Whose Deportation or Removal Was Withheld**

VERIFICATION

- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(10)"
- INS Form I-766 (Employment Authorization Document) annotated "A10"
- Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.

- **Alien Granted Conditional Entry**

VERIFICATION

- INS Form I-94 with stamp showing admission under section 203(a)(7) of the INA
- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"
- INS Form I-766 (Employment Authorization Document) annotated "A3"

- **Refugee**

VERIFICATION

- INS Form I-94 annotated with stamp showing admission under Section 207 of the INA
- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"
- INS Form I-766 (Employment Authorization document) annotated "A3"
- I-551 with a class code RE or any other INS documentation with a class code RE
- INS Form I-571 (Refugee Travel Document)

- **Asylee**

VERIFICATION

- INS Form I-94 annotated with stamp showing grant of asylum under Section 208 of the Immigrant and Nationality Act (INA)
- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(5)"
- INS Form I-766 (Employment Authorization Document) annotated "A5"

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- Grant letter from the Asylum Office of INS
- Order of an immigration judge granting asylum
- **Cuban/Haitian Entrant**

VERIFICATION

- INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card") with the code CU6, CU7, or CH6
- Unexpired temporary I-551 stamp with the code CU6 or CU7 on INS Form I-94
- Unexpired temporary I-551 stamp with the code CU6 or CU7 in foreign passport
- INS Form I-94 with stamp showing parole as "Cuba/Haitian Entrant" under Section 212(d)(5) of the INA.
- **Amerasian Aliens**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as amended by the Balanced Budget Act, exempted certain Amerasians¹, from the five-year bar from federal means-tested benefits. Aliens who meet the following conditions are to be identified and tracked as Amerasian refugees:

- (a) born in Vietnam after January 1, 1962, and before January 1, 1976, and was fathered by a citizen of the U.S. (*This person is referred to as the principal alien*); or
- (b) the spouse or child of the principal alien, and is accompanying, or following to join the principal alien; or
- (c) is the mother of the principal alien, or the spouse or child of such mother, or has acted in effect as the principal alien's mother, father, or next of kin, (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

AMERASIAN ALIEN VERIFICATION:

- INS Form I-551 with the code AM6, AM7, or AM8
- Unexpired temporary I-551 stamp in foreign passport with the code AM1, AM2, or AM3
- INS Form I-94 with the code AM1, AM2, or AM3

¹as defined in Section 584 of the Foreign Operations, Export Financing, and Related Programs appropriations Act, 1988 (as contained in Section 101(e) of Public Law 100-202 and amended by the ninth proviso under MIGRATION AND REFUGEE ASSISTANCE in Title II of the Foreign Operations, Export Financing, and related Programs Appropriations Act, 1989, Public Law 100-461, as amended)

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NOTE: Important change to Amerasian LPR identification and tracking:

For Medi-Cal identification and tracking purposes, it is *not* necessary to code Amerasian legal permanent residents (LPRs) with a different code from Amerasian refugees. *All Amerasian aliens are to be treated as refugees* (refugee/alien indicator E). The instructions in ACWDL 97-42 which indicate that Amerasians who are LPRs should be identified by a refugee/alien indicator of K and an alien eligibility code of 8, have been amended. *A revision of the Qualified/Not Qualified/Refugee Alien Tracking chart is enclosed with this ACWDL.*

• **Indochinese Refugee**

The term **Indochinese** defines a person from Burma, Thailand, Laos, Cambodia, Vietnam, or Malaya.

Not all Indochinese aliens are refugees. An **Indochinese Refugee** is an alien who meets the definition of Refugee, and who is (or was) a national or resident of Laos, Cambodia, or Vietnam, and who does not meet the definition of Amerasian, above.

VERIFICATION

A determination of whether an alien is an Indochinese refugee is really a two-step process: Step 1 is to determine if the alien is a refugee, based on INS documentation, and Step 2 is to determine where the alien was born.

Step 1 REFUGEE VERIFICATION (general)

- INS Form I-94 annotated with stamp showing admission under Section 207 of the INA
- INS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"
- INS Form I-766 (Employment Authorization document) annotated "A3"
- I-551 with a class code RE or any other INS documentation with a class code RE
- INS Form I-571 (Refugee Travel Document)

Step 2 INDOCHINESE REFUGEE VERIFICATION:

- INS Form I-94 annotated with stamp showing admission under Section 207 of the INA with the Country of Citizenship, or City, Province (State) and Country of Birth, indicating Vietnam, Laos, or Cambodia.
- Verification that the alien is a refugee and the alien's signed statement on the MC13 that he/she was born in, or is a citizen of Vietnam, Laos, or Cambodia.

Questions and Answers

1. Q. **An alien applying for Medi-Cal claimed to be a refugee, but had an I-551 "green card." We thought only LPR's had "green cards."**

A. Refugees, or asylees, who have been physically present in the U.S. for one year can apply to have their status adjusted to lawful permanent resident and, if approved, will receive an I-551.
2. Q. **An alien is identified and tracked on the Medi-Cal Eligibility Data System (MEDS) with a refugee/alien indicator code of "R" for refugee. But the alien has now adjusted his/her status to LPR. Should we change the code to "K" for LPR?**

A. If the alien is already known to MEDS with a code that identifies him/her as a refugee, asylee, Cuban/Haitian Entrant, or Deportation Withheld, the code should not be changed when the alien adjusts his/her status to LPR, especially if the alien's date of entry into the U.S. is on or after August 22, 1996. However, whenever any alien becomes a U.S. citizen, the refugee/alien code should be removed from MEDS.
3. Q. **What refugee/alien indicator code should we use to identify a LPR applicant who entered the U.S. as a refugee or asylee, and is not already identified and coded on MEDS?**

A. If the alien's date of entry into the U.S. is on or after August 22, 1996, it is extremely important to determine if the alien ever had refugee, asylee, Cuban/Haitian Entrant, or Deportation Withheld status. If so, the alien should be coded with the appropriate refugee or asylee indicator code. This information is necessary so that California can correctly claim federal financial participation (FFP) for the alien's Medi-Cal services.
4. Q. **If a refugee has adjusted his/her status to LPR, how will we know if he/she entered the U.S. as a refugee? How can I tell if an LPR once had status under Deportation Withheld?**

A. To determine if a LPR once had refugee or asylee status, review the class code on the alien's I-551. The following letters in the class code will indicate the alien's status when he/she entered the U.S. :
RE - refugee AS - asylee
AM - Amerasian CU or CH - Cuban/Haitian

To determine if an alien once had status under Deportation Withheld, it will be necessary for the county eligibility worker (EW) to review the alien's original documentation, or institute secondary Systematic Alien Verification for Entitlement (SAVE). The EW would only need to take these steps if the LPR alien's date of entry on the I-551 was on or after August 22, 1996 and the alien indicated that at one time he/she had a status of Deportation Withheld.

5. Q. Many times an alien's I-94 has a class code with no specific INS section cited. How can we tell if the alien is a Qualified or Not Qualified alien?

A. According to the INS, aliens are allowed to enter the U.S. as "immigrants" or "nonimmigrants." All immigrant aliens are Qualified aliens. Immigrant aliens will have an INS section cited on their I-94 document that will allow the EW to determine an alien's Qualified alien status, or a foreign passport with a stamp "processed for I-551" and a class code. Any alien processed for an I-551 is a LPR.

Many nonimmigrant aliens will have a class code indicated on their I-94 document, or on a foreign passport, with no specific INS section cited. There will not be a stamp indicating "processed for I-551". Not Qualified aliens with this type of documentation should be identified and tracked, as temporary visa holders. Some class codes that are commonly seen by EW's are B-2, F-1, and L-1. These codes stand for categories of temporary admission, i.e., aliens who have been admitted, temporarily, to work, attend school, visit, or any number of other reasons. However, it is not necessary to know what each code specifically means, it is only important to know that aliens admitted into the U.S. under these codes are temporary visa holders, and therefore, nonimmigrant, Not Qualified aliens.

Date of Entry

Why is the alien's date of entry so important?

PRWORA provides that certain Qualified Aliens entering the U.S. on or after August 22, 1996, are subject to a five-year bar from Medicaid benefits. What this means is that although California continues to provide full-scope Medi-Cal benefits to these otherwise eligible Qualified Aliens, California cannot receive Federal Financial Participation (FFP) for the nonemergency Medi-Cal services provided to them.

(Additionally, California continues to provide full-scope Medi-Cal benefits to most Not Qualified aliens, but cannot receive FFP for their nonemergency Medi-Cal services).

In order for California to correctly claim FFP for the Medi-Cal services provided to aliens, it is important to have an alien's immigration status and date of entry into the U.S. correctly identified.

If an alien obtained his/her Qualified alien status before August 22, 1996, he/she is not subject to the five-year bar. Additionally, if an alien lawfully entered the U.S. prior to August 22, 1996, and obtained his/her Qualified alien status after August 22, 1996, and has been "continuously present" in the United States, he/she is not subject to the five-year bar.

Continuous Presence

In general, continuous presence means that the alien has not had any single absence from the U.S. of more than 30 days, or total combined absences of more than 90 days. If continuous presence can be verified, the

alien's actual date of entry (as verified on his/her original INS documentation, usually, an I-94) shall be used, instead of the alien's status "adjust" date to Qualified alien status.

CONTINUOUS PRESENCE VERIFICATION

- Utility bills, rent receipts, pay stubs, school records, or any other documents which can be used to verify residence in the U.S.

Questions and Answers

6. Q. An alien entered the U.S. as a refugee or asylee, but has now adjusted his/her status to LPR. What date should we use for date of entry, the date of entry into the U.S. as a refugee or asylee, or the date he/she adjusted to LPR status?
- A. When determining eligibility for Refugee Medical Assistance (RMA), follow the instructions regarding date of entry outlined in Article 24 of the Medi-Cal Eligibility Procedures Manual.
- The refugee's date of entry into the U.S. as a refugee will be retained when the alien adjusts his/her status to LPR. It will be reflected as the date of entry/status adjust date, on the I-551. This date will also be reflected as the date of entry on SAVE.
- Asylee status is an INS determination that is made after an alien is already in the U.S. The alien entered the U.S. in some other alien status, i.e. with a visa or other temporary documentation, or no documentation, and then requested that INS allow him/her to remain in the U.S. as an asylee. The date of entry reflected on the primary SAVE for an alien with asylee status will be the date asylee status was granted. If the date of entry reflected on SAVE is on or after August 22, 1996, the continuous presence guidelines should be used when determining date of entry for Medi-Cal purposes.
7. Q. What if an alien entered the U.S. before August 22, 1996 but was undocumented, and then adjusted to LPR status after August 22, 1996. Are they subject to the five-year bar?
- A. Yes. The continuous presence rule only applies to aliens who were lawfully present in the U.S. prior to August 22, 1996, and who obtained their Qualified alien status *after* that date. *But remember, California continues to provide full scope Medi-Cal benefits to all otherwise eligible Qualified and Not Qualified aliens, no matter when they entered the U.S.*
8. Q. The date of entry we use on MEDS has always been the date of entry provided by SAVE. Is this still correct?

- A. The date of entry on a primary SAVE verification may not be correct for some aliens. The primary SAVE date of entry cannot be used for asylees, or other Qualified aliens who entered the U.S. in a Not Qualified alien status and obtained a Qualified alien status after August 22, 1996. SAVE will verify the date the alien adjusted to Qualified alien status. The eligibility worker must review for *continuous presence* to determine the appropriate date of entry.

NOTE: The INS is currently reviewing the continuous presence criteria to determine if it can be applied to undocumented aliens who adjust their status to Qualified alien on or after August 22, 1996. Counties should flag any cases that include any undocumented aliens who have adjusted their status to that of a Qualified alien on or after August 22, 1996, so that their continuous presence can be reviewed at a later date, if necessary.

Active Duty Member or Veteran of the U.S. Armed Services, Spouse, Unremarried Widow/er, and Dependent Child(ren)

In order for an alien to meet the federal definition of an active duty member or veteran of the U.S. Armed Service, or their spouse, unremarried widow/er, or dependent child, the following conditions must be met and verified:

- **On Active Duty in the U.S. Armed Forces**

The individual must be on full-time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard. It does not include full-time National Guard duty.

VERIFICATION

- Current Military Identification Card (DD Form 2 (Active)) that lists an expiration date of more than one year from the date of determination.
- If the Military Identification Card is due to expire within one year from date of the determination, the service member shall verify active duty by showing a copy of his/her current military orders.

- **Honorably Discharged Veterans Who Fulfill the Minimum Active-Duty Service Requirements**

VERIFICATION

- A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge "Honorable," showing an original enlistment date in the service prior to September 7, 1980.

- A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge "Honorable" which shows two or more years of continuous active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard.
- CA 5 Form verifying the requirements listed above.

→ **NOTE:** If the discharge certificate, DD Form 214 or equivalent, is not available, or shows active duty service of less than two years with an original enlistment after September 7, 1980, refer the individual to the local Veterans' Administration regional office to determine satisfaction of the minimum active-duty service requirement.

→ **NOTE:** A character of discharge "Under Honorable Conditions" is NOT an "Honorable" discharge for Qualified alien purposes. A discharge certificate that shows "Honorable" and any other branch of service or any other type of duty, (e.g., "Active Duty for Training," "Inactive Duty for Training," etc.) should be referred to the local Veterans' Administration (VA) regional office for determination as to veteran status.

- **Spouse, Children, or Unremarried Surviving Spouse of Active Duty Members or Veterans**

Establish that the individual is a spouse, dependent child, or unremarried surviving spouse of an active duty member or veteran.

VERIFICATION: SPOUSE

- Possession of a current Military Identification Card (DD Form 1173) showing that the individual is married to a veteran or active duty member of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard.

A Military Identification Card (DD Form 1173) with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement.

If the Identification Card is due to expire within one year, the spouse must provide a copy of the military orders for his or her spouse to establish the active duty status of the service member. If married to a reserve member the orders must show that the service member is on active duty and not on active duty for training.

VERIFICATION: UNREMARIED SURVIVING SPOUSE

In addition to a determination that the surviving spouse has not remarried:

- documentation that the surviving spouse was married to the veteran or active duty personnel within fifteen years after the termination of the period of service in which the

injury or disease causing the death of the veteran was incurred or aggravated; and

- the surviving spouse was married to the veteran or active-duty personnel for one year or more; or
- that a child was born of the relationship between the surviving spouse and the veteran or active-duty personnel, either during or before the marriage.

VERIFICATION: CHILD

- Possession of a current Military Identification Card (DD Form 1173) showing that the individual is a dependent child of a veteran or active duty member of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard. *(Unless there is conflicting information, possession of a Military Identification Card may be considered as evidence that a child is dependent on the veteran or active duty member of the Armed Forces for his or her support and is under the age of 18 or if a full-time student, under the age of 22).*

A Military Identification Card (DD Form 1173) with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement.

If the Identification Card is due to expire within one year, the child must provide a copy of the military orders for his or her parent to establish the active duty status of the service member. If an unmarried child of a reserve member, the orders must show that the service member is on active duty and not on active duty for training.

Questions and Answers

9. **Q.** **What can the alien do if he/she needs help obtaining the verifications required in order to verify active duty or veterans status?**
- A.** Veterans status can be verified through the CA 5 process. Refer the applicant/beneficiary to the local VA regional office for determination.

If the service member, spouse, children, or unremarried surviving spouse is unable to furnish a copy of **Active Duty** verifications needed, he/she can obtain verifications through the nearest RAPIDS (Real Time Automated Personnel Identification System) located at most military installations, or by notifying the following office in writing/faxing: DEERS Support Office, Attention: Research and Analysis, 400 Gigling Road, Seaside California 93955-6771, FAX: (408) 655-8317.

Battered Aliens

In order for an alien to meet the federal definition of Qualified alien due to battery or extreme cruelty, the following four requirements must be met.

Requirement 1:

Determine that the applicant/beneficiary has been approved or has a petition pending under one of the following provisions of the INA:

- a) INA Section 204(a)(1)(A)(I) or INA Section 204(a)(1)(B)(I)
- b) INA Section 204(a)(1)(A)(ii)
- c) INA Section 204(a)(1)(A)(iii), INA Section 204(a)(1)(B)(ii)
- d) INA Section 204(a)(1)(A)(iv), or INA Section 204(a)(1)(B)(iii)
- e) INA Section 244(a)(3) of the INA as in effect prior to April 1, 1997 or INA Section 204A(b)(2)

Requirement 2:

Determine if the applicant/beneficiary, his or her child, or in the case of an alien child, his or her parent, has been battered or subjected to extreme cruelty.

Requirement 3:

Determine if there is a substantial connection between the battery and the need for benefits.

Requirement 4:

Determine that the applicant/beneficiary no longer lives in the same household with the batterer.

Verification Requirement 1:

- a) **INA Section 204(a)(1)(A)(I) or INA Section 204(a)(1)(B)(I):**
 - INS Form I-551 (Resident Alien Card or Alien Registration Receipt Card, commonly known as a "green card") with one of the following INS class of admission (COA) codes printed on the front of a white card or the back of a pink card, demonstrates approval of a petition: AR1, AR6, C20 through C29, CF1, CF2, CR1, CR2, CR6, CR7, CX1 through CX3, CX6 through CX8, F20 through F29, FX1 through FX3, FX6 through FX8, IF1, IF2, IR1 through IR4, IR6 through IR9, IW1, IW2, IW6, IW7, MR6, MR7, P21 through P23, P26 through P28.

NOTE: If an alien claiming approved status presents a code different than those enumerated above, or if you cannot determine the class of admission from the I-551 stamp, you should file INS Form G-845 and the G-845 Supplement (secondary SAVE), along with a copy of the document(s) presented.

- **INS Notice of a Prima Facie Case** This notice is valid until the INS has adjudicated the alien's petition. At present, the INS intends to issue the notice with a validity period of 150 days, which exceeds the time required for adjudication in the majority of cases. In those few cases when the INS is unable to complete the adjudication within the 150-day

period, the alien will be able to request an extension pursuant to the instructions on the Notice.

b) **INA Section 204(a)(1)(A)(ii):**

- INS Form I-551 with one of the following COA codes stamped on the lower left side of the back of a pink card demonstrates approval of a petition: IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, or BX6 through BX8.
- INS Notice of a Prima Facie Case. This notice is valid until the INS has adjudicated the aliens petition. Presently, the INS intends to issue the notice with a validity period of 150 days, which exceeds the time required for adjudication in the majority of cases. In those few cases when the INS is unable to complete the adjudication within the 150-day period, the alien will be able to request an extension pursuant to the instructions on the Notice.

c) **INA Section 204(a)(1)(A)(iii), INA Section 204(a)(1)(B)(ii)**

d) **INA Section 204(a)(1)(A)(iv), or INA Section 204(a)(1)(B)(iii)**

- INS Form I-797 indicating approval of an INS I-130 petition describing the following relationships: husbands or wives of U.S. citizens or LPRs, unmarried children under 21 years old of U.S. citizens or LPRs, or unmarried children 21 years or older of LPRs.
- approval of an I-360 petition based on status as a widow/widower of a U.S. citizen or as a self-petitioning spouse or child of an abusive U.S. citizen or LPR.
- INS Notice of a Prima Facie Case This notice is valid until the INS has adjudicated the alien's petition. At present, the INS intends to issue the notice with a validity period of 150 days, which exceeds the time required for adjudication in the majority of cases. In those few cases when the INS is unable to complete the adjudication within the 150-day period, the alien will be able to request an extension pursuant to the instructions on the Notice.

e) **INA Section 244(a)(3) of the INA as in effect prior to April 1, 1997 or INA Section 204A(b)(2)**

- INS Form I-551 with a COA code Z13 may demonstrate approval of a petition; if an alien claiming approved status presents a card bearing the code Z13, initiate secondary SAVE.
- A final order of an Immigration Judge or the Board of Immigration Appeals granting Suspension of Deportation under Section 244(a)(3) of the INA as in effect prior to April 1, 1997 or cancellation of removal under Section 240A(b)(2) of the INA.

- INS Notice of a Prima Facie Case. This notice is valid until the INS has adjudicated the alien's petition. At present, the INS intends to issue the notice with a validity period of 150 days, which exceeds the time required for adjudication in the majority of cases. In those few cases when the INS is unable to complete the adjudication within the 150-day period, the alien will be able to request an extension pursuant to the instructions on the Notice.

Verification Requirement 2:

Acceptable verification of abuse or cruelty may include, but is not limited to:

- Verification from INS that the applicant/beneficiary has had an application approved under INA Section 204(a)(1)(A)(iii) or INA Section 204(a)(1)(B)(ii) *LPR status as an alien who is the spouse of a U.S. citizen or LPR, who has resided with the spouse in the U.S., and who (or whose child) has been subjected to battery or cruelty in the U.S. by his/her spouse;*
- Verification from INS that the applicant/beneficiary has had an application approved under INA Section 204(a)(1)(A)(iv) or INA Section 204(a)(1)(B)(iii) *LPR status as an alien who is the child of a U.S. citizen or LPR, and who has resided with that parent in the U.S., and been subjected to battery or cruelty in the U.S. by his/her citizen or LPR parent;*
- Police, government agency, or court records or files, documenting abuse/cruelty;
- Documentation from a domestic violence program, legal, clerical, medical, or other professional from whom the applicant/beneficiary has sought assistance in dealing with the abuse;
- A statement from any other individual with knowledge of the circumstances (abuse/cruelty), that provide basis for the claim, or physical evidence of abuse, or any other evidence that supports the applicant's/beneficiary's statement.

Verification Requirement 3:

Acceptable verification that there is a substantial connection between the battery and the need for benefits will be demonstrated by one or more of the following circumstances:

- The alien or the alien's child is receiving cash assistance based on battery or extreme cruelty;
- benefits are needed due to a loss of financial support resulting from the alien's and or his or her child's separation from the abuser;
- benefits are needed because the alien or his/her child requires medical attention or mental health counseling or has become disabled as a result of the battery or cruelty;
- benefits are needed to provide medical care during an unwanted pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien or his or her child, and/or to care for any resulting children;
- medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant or child had when living with the abuser; and
- if the facts presented by the alien are different from the situations described, but the benefit provider or the applicant believes that the applicant satisfies the substantial connection requirement, either the benefit provider or the applicant should obtain a determination from the Department as to whether the applicant's need for the benefit is substantially connected to the battery or cruelty.

Verification Requirement 4:

Acceptable verification that the applicant/beneficiary no longer lives in the same household with the batterer can include:

- Any relevant credible evidence that supports the client's statement unless the county department has conflicting information. Relevant credible evidence can include, but is not limited to, protective orders issued by the court, rental receipts, or the client's written statement supported by a statement from any other individual with knowledge of the circumstances.

Questions and Answers

10. Q. Can an undocumented alien, who can verify she has been battered, be considered a Qualified alien?

A. Verification that an alien has been battered is not the only condition that must be met in order for an alien to meet the federal definition of a Qualified alien due to battery or extreme cruelty.

An undocumented alien who has been battered must have a pending or approved self-petition with INS, and meet the other battered alien conditions/criteria, to be considered a Qualified alien.

11. Q. Can SAVE be used to verify that an alien is battered?

A. SAVE will only verify an alien's INS status. If an eligibility worker is verifying that an alien has a petition pending with INS, or is verifying the INS Notice of a Prima Facie Case, it will be necessary to utilize the secondary SAVE procedures.

12. Q. How do we identify and track battered aliens? According to ACWDL 97-42, only LPRs, Conditional Entrants, and Other Aliens (refugee/alien indicator codes K, C, and S) are tracked as battered?

A. In October 1997, when ACWDL 97-42 was issued, it was thought that only aliens who had relative sponsored petitions for LPR status already on file with INS, could meet the battered alien criteria. Since that time battered alien guidelines were issued by the Department of Justice. Those guidelines provided additional information and clarified that even aliens with no documentation, or temporary documentation could, in certain circumstances, meet the conditions necessary to be considered a Qualified alien due to battery or extreme cruelty.

The INA allows a citizen or lawful permanent resident (LPR) of the U.S. to seek LPR status for some of their alien relatives (including undocumented spouses and children). Historically, the initiation of the visa petition was solely at the discretion of the U.S. citizen or LPR relative. For that reason, the citizen or LPR relative effectively controlled the ability of an alien spouse or child to regularize his or her immigration status. Congress recognized the potential for misuse of this discretion within households where domestic

violence occurs, and legislation was passed to enable these battered spouses and children to self-petition for LPR status, thus limiting the ability of an abusive citizen or LPR to use the immigration laws to perpetuate further violence against a spouse or child residing in the U.S.

Based on this information, undocumented aliens, and aliens residing in the U.S. with visas, who are married to, or have children with U.S. citizens or LPRs, can also self-petition for LPR status and be considered Qualified aliens, if all of the battered alien conditions are met. When this is the case, determine if the alien has been approved for LPR status. If so, the alien can be identified and tracked with a refugee/indicator of K and alien eligibility code 9. Review continuous presence criteria when determining date of entry. If the alien has not yet been approved for LPR status, but has verified that they have an INS Notice of a Prima Facie Case, identify and track the alien with the refugee/indicator code that corresponds with their alien status, (U, V, etc.), and use an alien indicator of 9 with the refugee/indicator code. (See revised Qualified/Not Qualified/Refugee Alien Tracking chart attached with this letter.) Review continuous presence criteria when determining date of entry.

Aliens who are not eligible to receive full-scope Medi-Cal benefits because of their undocumented or temporary alien status, but who meet the battered alien criteria, should be given the opportunity to apply for full scope Medi-Cal benefits as an alien Permanently Residing in the United States Under Color of Law (PRUCOL).

13. Q. **If an alien who has been battered or subjected to extreme cruelty needs help with filing or obtaining INS paperwork, or needs other types of help, is there someone the EW can refer them to?**
- A. Many of the applicants seeking assistance pursuant to this provision will need assistance on various matters relating to both their immigration status and their domestic violence-related concerns. County eligibility staff should direct applicants to the INS forms request line (1-800-870-3676) so that applicants who are eligible to self-petition, but have yet to do so, may request an INS Form I-360 and filing instructions. Eligibility staff can also refer them to the National Domestic Violence Hotline (1-800-799-7233) so that applicants may obtain assistance from a local domestic violence service provider and referrals to immigration attorneys. This hotline is answered by a "live" person and assistance is available in all languages.

If you have any further questions regarding this letter, please contact Ms. Linda Rahmeyer of my staff at (916) 657-0398.

Sincerely,

ORIGINAL SIGNED BY
GLENDA ARELLANO for
Angie Mrva, Chief
Policy Section B
Medi-Cal Eligibility Branch

Enclosure

QUALIFIED / NOT QUALIFIED/ REFUGEE/ ALIEN TRACKING

		CURRENT CODES	NEW CODES EFFECTIVE 12/1/97	
ALIEN CLASSIFICATION		Refugee/Alien Indicator	Refugee/Alien Indicator	Alien Eligibility Code
Battered / Subjected to extreme cruelty (that meet the conditions necessary to be considered a Qualified alien)			K,C,S,U,V,W,Y	9*
Active Duty/Veteran or spouse/dependent child		0 or 9	K	active duty/veteran spouse child 4 5 6
Amerasian Lawful Permanent Resident (LPR)		7	K	8**
Other Lawful Permanent Resident (LPR) <u>not</u> active duty/veteran or spouse/child, or Amerasian		0 or 9	K	
Deportation Withheld <i>admitted under INA section 243(h) or INA section 241(b)(3)</i>		0 or 9	D	
Conditional Entrant <i>admitted under INA section 203(a)(7)</i>		7	C	
Kurdish/Iraqi Asylee <i>admitted under INA section 208</i> date of entry is date asylum was granted		7	Z	
Other Asylee <i>admitted under INA section 208 and not</i> Kurdish/Iraqi date of entry is date asylee entered the U.S.		7	L	
Indochinese Refugee <i>admitted under INA section 207 and not</i> Amerasian Refugee		1	X	
Amerasian Refugee <i>admitted under INA section 207 and not</i> Indochinese Refugee		7	E	
Other Refugee <i>admitted under INA section 207 and not</i> Indochinese Refugee or Amerasian Refugee		7	R	
Cuban/Haitian Entrant		8	8	
Citizen Child of Refugee		5	5	
Parolee <i>admitted under INA section 212(d)(5) w/ period of parole over 1 year</i>		7	W	
Parolee <i>admitted under INA section 212(d)(5) period of parole less than one year</i>		7	Y	
Other Aliens *** <u>not</u> a temporary Visa holder		0 or 9	S	
Visitor /Student / VISA and other aliens with temporary documentation		0 or 9	V	
Undocumented aliens		0 or 9	U	

- an entry of 9 should not be reported if the alien can be coded with a 4, 5, 6 or 8 in the alien eligibility code field
- ~~an entry of 8 should not be reported if the alien can be coded with a 4, 5, 6 or 6~~
- Other aliens, defined for identification and tracking purposes only. Include aliens verified by INS through G-845 process as:
 Voluntary Departure (INA section 242(b)),
 Order of Supervision (INA section 242),
 Registry Alien (INA section 249),
 Indefinite Stay of Deportation,
 Suspension of Deportation (INA section 244),
 In United States w/ Permission of INS,
 Deferred Action Status,
 Indefinite Voluntary Departure,
 Extended Voluntary Departure.

Stay of Deportation (INA 106),
 Immediate Relative Petition,

Application for Adjustment Status,
 Lawful Temporary resident.